

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF OHIO

3 EASTERN DIVISION

4 DALONTE WHITE,)

5 Plaintiff,)

6 vs.)

7 CITY OF CLEVELAND, et al.,)

8 Defendants.)

) JUDGE PAMELA A. BARKER

) CASE NO. 1:17-cv-01165

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12 THE VIDEO RECORDED 30(b)(6) DEPOSITION OF
13 COMMANDER MICHAEL CONNELLY
14 VOLUME II
15 MONDAY, JANUARY 27, 2020
16 - - - - -

17 - - - - -
18 EXCERPTS
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25 CADY REPORTING SERVICES, INC.

PLAINTIFF'S
EXHIBIT

4

CADY REPORTING

16-861-9270

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2
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8 ALSO PRESENT:

9 Alex Cook, Videographer
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EXCERPT

BY MR. BARDWELL:

Q All right. I'm going to hand you Exhibit 1024.

MR. BARDWELL: Do you guys
still have all of your copies from last time?

MR. PUIN: We didn't bring
them.

MR. BARDWELL: You didn't.
All right. I can roll some more off when we
take a break if you guys want.

MS. MILEY: Just what is
it?

MR. PUIN: Yeah, I don't
think we need a copy.

MS. MILEY: Yeah. I don't
need another copy.

MR. BARDWELL: Okay.

MS. MILEY: Read me the
Bates number so I can make a note.

MR. BARDWELL: It's
Plaintiff's Exhibit 1024. It's WHITE21838
through 21842.

BY MR. BARDWELL:

Q Do you remember we talked about this exhibit
last time?

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A I think so.

Q All right. You testified that the city thinks this is the report mentioned in paragraph 12 of Shoulders' arrest warrant, right?

A I think I did testify to that, but I'm not sure if I was correct.

Q Okay. When did you first see this report?

A I'm sorry. Just give me a second, okay, so I can look it over.

Q Go ahead.

A I think I first saw this report when I was reviewing -- when I was preparing for this deposition, which would have been a month or two ago.

Q All right. How did you find it?

A It was provided to me by counsel.

Q All right. Does the city agree that there was a prosecution initiated against Dalonte White?

A In connection with which case?

Q The --

A This report, or another case?

Q No. In connection -- you can set that down.

A Okay.

Q In connection with the Colleen Alums case.

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A They did, yes.

Q Sorry. Let me step back.

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Q Okay. Looking back to Exhibit 1024, which you have in front of you still.

A Yes.

Q Is it fair to say that this is an aggravated menacing report as well?

A Yes.

Q All right. Is it fair to say that this -- what's the date on this report?

A It is April 19.

Q What day of the week was that?

A I believe a Sunday.

Q Okay. Is it fair to say that that is from the weekend prior to the Colleen Alums report?

A Yes.

Q Okay. Is it fair to say that this complaint is from the area of West 59th Street?

A Yes.

Q What's the address on it?

A 5918 Gilbert Court.

Q At 5918, we're talking about a house within a block of West 59th, right?

A Correct.

Q All right. This report does mention Dalonte White and Rayvion Edwards, right?

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If you want to, you can turn all the way to the last page, which is 21842.

You'll see up in that first paragraph it says that the witnesses stated that there was a game of basketball going on in front of the house when Offender 1, in company with Dalonte White and another black male known as Shartrell, approached --

A Right.

Q -- the game.

Do you understand that that Offender 1 who was redacted is Rayvion Edwards?

A It's possible, but I'm not sure.

Q You've reviewed this report before, right?

A I have.

Q All right. Do you remember who that was in there?

A I don't.

Q Okay. Do you remember this report referring to Rayvion Edwards at all?

A I remember Rayvion Edwards being a part of this, correct.

Q Okay.

A I just don't remember exactly where they have

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his name.

Q This report does make reference to Dalonte
White and Rayvion Edwards, right?

A It does.

Q All right. This report generally matches the
description that Schade provided, correct?

A It does.

Q Okay. Is there any report in existence in the
Cleveland Division of Police that better
matches the description that Schade provided
than this report, Exhibit 1024?

MR. PUIN: Objection.

A Not that I'm aware of.

Q Okay. Not that the city is aware of, right?

A That's correct.

Q The city has conducted a thorough search for
such a record, right?

A I did not conduct or the city -- as far as I'm
aware, we did not conduct a thorough search for
any other reports.

Q The city did not conduct a -- okay.

A That was your question to me, correct?

Q I hope not. Let me try it again.

Do you understand that the city has

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requested any records related to the
investigation of the Colleen Alums incident?

A Right.

Q That would include, would you agree, the report
that Detective Schade referred to?

A Correct.

Q Okay. Has the city conducted a thorough search
for records responsive to our request?

A Beyond this report?

Q Yes.

A The search I think found this report. So this
is the report we were -- I believe that you're
asking me for. Maybe I'm misunderstanding your
question.

Q I think so.

Setting aside what reports are sitting in
front of us --

A Okay.

Q -- in our hands.

Did the city conduct a thorough search
for the reports that we requested?

A Oh. Yes.

Q Okay.

A I'm sorry. I'm tired. I apologize.

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Q All right. Okay. After conducting that thorough search, this is the -- this report is the closest match to what Detective Schade described, correct?

A Yes.

Q Does the city have any reason to believe that there's another report that better matches what Detective Schade described?

A No.

Q Okay. Then we're in agreement that Exhibit 1024 is the report that Detective Schade told Detective Lam about, correct?

MR. PUIN: Objection.

A And, once again, I believe he's probably talking about this report, but since the subjects in both reports are related, I think that he may have -- because I think Shartrell Harris is part of this first report you're talking about, 82488. And he's in this one as well, correct?

And there was two unidentified subjects in this first report that I'm not sure if the detectives had -- possibly had information that led them to believe that -- I can't remember

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that conversation between the two.

Q Do you have any -- does the city have any
information indicating that Detective Schade
believed -- let me start over.

Does the city -- pardon me.

Does the city have any evidence that
Detective Schade had reason to believe that
Dalonte White and Rayvion Edwards were involved
in the complaint described in Exhibit 988?

A I don't.

Q Okay.

A We don't.

Q Okay. Does the city agree, then, that Exhibit
1024 is the report Schade was talking about?

MR. PUIN: Objection.

A Yes.

Q Okay. So it's the same report that Detective
Lam was talking about in his cleanup?

MR. PUIN: Objection.

A It appears that way.

Q All right. Does the city believe that that is
the case?

A Yes.

Q Does the city believe that Exhibit 1024 is the

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report that detective -- that Sergeant
Shoulders was referring to in paragraph 12 of
his warrant application?

MR. PUIN: Objection.

A Once again, it would appear that that's the
report, yes.

Q The city believes that that's the case,
correct?

A Yes.

Q Okay. What does the report say about Dalonte
White's involvement in this case?

A Which report, sir?

Q Exhibit 1024. What does it say about Dalonte
White's involvement in this aggravating
menacing incident?

MR. PUIN: Objection.

A It says: According to the witness, Dalonte
White was not involved in the menacing and in
fact attempted to convince the other two males
that the witness was not who they thought.

Q Okay. So he's not a suspect in this case, is
he?

A That's correct.

Q He's actually trying to stop the crime from

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happening, correct?

A Yes.

Q He was playing peacemaker, is that fair to say?

A It is.

Q All right. Who's the investigating officer on this report?

A Weber.

Q All right. And then there's a secondary investigating officer?

A It's me, but it's not me.

Q All right.

A Connelly 143.

Q All right. You are Connelly, but you are not 143, is that correct?

A I was 143 25 years ago.

Q All right.

A But I am not 143 anymore. So there's probably a data error.

Q Okay. All right. Just to be clear, did you have anything to do with investigating this report?

A I did not.

Q Okay. As far as you know, is it possible that there's another Connelly out there, badge 143?

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A There's not another Connelly 143. But my badge is not 143 and it wasn't 143 at the time of this incident.

Q Okay. What is your badge number?

A 6129.

Q How long has that been your badge number?

A Just over a year.

Q All right.

A And before that it was 8440 for about 17 years.

Q Okay. Why do badge numbers change?

A When you get promoted they change.

Q Okay. Does the city have any evidence that Schade was involved in investigating this report?

A Not at this time.

Q Okay. Does the city know any facts indicating that Schade was involved in creating this report?

A And we are still discussing --

Q Exhibit 1024.

A 1024.

No.

Q All right. Does the city have any facts indicating that Schade did any follow-up

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investigation on this report?

A No.

Q Does the city know any facts indicating that
Weber and mystery secondary investigating
officer were mistaken about what happened?

A We do not.

Q Does the city know any facts indicating that
Weber and mystery officer misunderstood what
the witnesses told them in this case?

A No.

Q Does the city know any facts indicating that
the witnesses mischaracterized what happened to
Weber and mystery officer?

MR. PUIN: Objection.

A We do not.

Q All right. If Schade had said that Dalonte was
a suspect in this case, in Exhibit 1024, that
statement would contradict this report,
correct?

A That's correct.

Q All right. If Schade did make that statement
contradicting this report, does the city have
any facts suggesting that he was correct,
rather than the report?

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A We do not.

Q Okay. Looking again at paragraph 12 of that --
pardon me.

Looking again at paragraph 12 of the
Shoulders' search warrant affidavit at Exhibit
975.

Does the city have any aggravated
menacing complaints that match the description
that Sergeant Shoulders provided in paragraph
12?

A It doesn't. No, it does not exactly match the
description.

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Q Let's go back to Exhibit 1024.

All right. We talked last time about the city's obligation to produce Brady evidence, right?

A We did.

Q That includes evidence that the defendant is not guilty of the crime in question, correct?

A Correct.

Q And also evidence that would tend to impeach, you know, the reliability of witnesses in the case, right?

A Uh-huh.

Q Okay. Does the city agree that Exhibit 1024 is Brady evidence?

MR. PUIN: Objection.

A I really don't have an opinion on it one way or the other. I think that I would leave that up to the prosecutor's office to decide. It would be provided to them.

Q Okay. Does the city have any evidence that it ever was provided to the prosecutor?

A I think the prosecutor -- I don't have the evidence in front of me, but -- my recollection is kind of foggy on this. I don't have that

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evidence in front of me. I don't recall that evidence.

Q Okay. Let's imagine we're at trial and we call the prosecutor and he says "I never received this." Do you have any information sitting here today that would suggest the prosecutor was not correct?

A I don't know that the prosecutor would do that. So I don't know. I don't know whether the prosecutor received this or not.

Q Okay. Do you have any evidence indicating that the prosecutor did receive this evidence -- did receive this report?

A Without reviewing Detective Lam's notes and emails between the prosecutor, I can't answer that.

Q Okay.

A I know they were in constant communication and that he provided the prosecutor's office with almost his daily activity on this case.

Q Okay. You have reviewed Detective Lam's reports and communications with the prosecutor, right?

A Yes.

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Q Okay. You did that in preparation for your deposition, correct?

A I did.

Q Having done all of that, you don't know of any evidence indicating that Detective Lam ever turned over the report, Exhibit 1024, to the prosecutor, do you?

A I think my testimony's going to be that I don't recall without reviewing all of that information, like, right now.

Q You don't recall what?

A My memory -- I do not remember whether or not this was provided to the prosecutor.

Q Sitting here today, you have no testimony you could give me?

A Without reviewing that information again.

Q Okay. So it's a no?

A No, it's without reviewing that information again.

Q Okay. Does the city have any evidence that it disclosed this report to the defense?

MS. MILEY: Objection.

Q In the prosecution of Dalonte White.

A No.

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Q Does the city agree that disclosing this report to the prosecution could have changed what happened in the criminal proceeding?

MS. MILEY: Objection.

MR. PUIN: Objection.

MS. KEEFER: Objection.

A The city does not agree with that.

Q It couldn't have?

MR. PUIN: Objection.

A Could you repeat the question again?

Q The city's position is that disclosing this to the prosecution could not have changed how the prosecutor's office proceeded with the prosecution of Dalonte White?

A I can't make a decision on what the prosecutor's office would have done.

Q Okay. Do you believe that it could have influenced or changed their decision making?

MS. MILEY: Objection.

A I believe that the prosecutor would have probably talked to the officers involved, pulled both those reports, sat everybody down and came to the bottom of it.

Q Okay. You've been involved in the process of

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deciding whether to proceed with a case with
the prosecutor --

A Yes.

Q -- tons of time?

A I have.

Q Okay. Based on your experience, do you believe
that disclosing this to the prosecutor could
have changed the way he decided to proceed with
the prosecution of Dalonte White?

MS. MILEY: Objection.

MR. PUIN: Objection.

MS. KEEFER: Objection.

A "Could have" is a broad statement. And
depending on who the prosecutor is and
depending on what other information -- you
know, this is just part of -- this is one thing
in the totality of the whole case.

Q Okay.

A So if you pull this information out but you
still have -- you still have identification and
you still have other evidence that provides
probable cause, then you still have probable
cause.

Q Okay.

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A So it's a difficult -- once again you're asking me a subjective question.

Q Okay. So given the evidence that you do have and what you do know and everything that did unfold in this case, you would agree, I assume, that disclosing this report to the prosecutor is not certain to change the prosecutor's decision making, right?

A That's what I would say. It is not certain.

Q It sounds like you were not even saying that it would have a high probability of changing the prosecutor's decision whether to prosecute.

A I'm not sure what the probability is, because, once again, it would require the prosecutor to sit down with all of the officers involved and hash it all out.

Q Okay.

A It could just be like -- you know, it could just be: Hey, I mixed this up, this report up with that report, and I have independent information that's not in this report as a police officer working in the second district.

Q Okay.

A But --

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Q It might compensate for the fact that this
report contains something?

A Yes.

So I don't have that information. The
prosecutor may.

Q Okay.

A So, you know, once again, it's a very
subjective question and it's based on probably
a prosecutor that has more trial experience
than I do going to trial and providing
exculpatory information to defense. I would
say that it's something that needs to be
discussed, absolutely.

Q Okay.

A Whether that would change his mind or her mind,
you know, I can't -- I can't say yes or no.

Q Okay. Is it fair to say that there's a
reasonable probability but that you cannot
measure that probability?

A A reasonable probability to -- of what?

Q Of influencing the prosecutor's decision
making.

A It would -- it would definitely --

MR. PUIN: Objection.

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A -- cause -- it would cause him to consider this information, along with all of the other information. How that would affect his case.

Q Okay. Does the city agree that it never disclosed Sergeant Shoulders' memory problems to the prosecution?

MR. PUIN: Objection.

MS. MILEY: Objection.

A I don't think that the city was aware that Sergeant Shoulders had a memory problem at the time of this incident.

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Q Does the city agree that disclosing both Exhibit 1024 and Sergeant Shoulders' memory issues could have changed the prosecutor's decision whether to proceed with the investigation?

MR. PUIN: Objection.

MS. KEEFER: Objection.

Q Assuming that Shoulders' memory problems existed at the time.

A So you're -- this is two questions. One is you're asking me about the documents, and then on top of the documents, Sergeant Shoulders.

Q Disclosing both pieces of information.

Does the city believe that disclosing both of those pieces of information could have changed the prosecutor's decision to proceed with the prosecution of Dalonte White?

A It could have influenced his decision.

Q Okay. It's safe to say the city does not believe it's certain that it would influence the decision?

A Correct.

Q But there's a reasonable probability?

MS. MILEY: Objection.

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MR. PUIN: Objection.

MS. KEEFER: Objection.

A It's reasonable to believe that putting those together that -- but then he would also have to say "What is Sergeant Shoulders going to testify to?"

Q Right.

A What can he testify to that Lam can't testify to or another officer involved can't testify to? Was there, you know, two officers doing the same thing all the time?

Q Okay.

A Was Lam with Shoulders all the time? Was there another detective involved? So there's a lot of factors involved.

Q Okay. And again assuming that all of these statements would be true, the city, it sounds like, would agree that disclosing Exhibit 1024 and Sergeant Shoulders' memory issues and the don't circle instruction, that that also would have a reasonable probability of influencing -- of changing the prosecution's decision --

MS. MILEY: Objection.

MS. KEEFER: Objection.

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Q -- to proceed with the prosecution of Dalonte
White?

A Yes.

Q Okay. In this case -- yeah, I want to talk
about supervision and training for a minute.

You've seen the complaint in this case,
right?

A Yes.

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MR. BARDWELL: All right.

And then I wanted to ask specifically
about Exhibit 1024.

Do we have that in here?

I'm going to hand it off to Tim for a
moment.

Did the city ever produce -- did anybody
ever produce this record to us?

MR. PUIN: If this is what
I'm thinking of, I think we did and I think you
asked that at the last depo.

Isn't this the one that Elena came in
with?

MR. BARDWELL: No. You're
thinking of Exhibit 988, I believe.

THE WITNESS: Right here.

MR. PUIN: Okay. Well, I
mean I would have to double-check our Bates
number on it, but I believe we would have --

MS. MILEY: Can I see it?

MR. PUIN: -- produced it.

In any case, you had it, right?

MR. BARDWELL: I mean you guys
had it on your own, though, right, and provided

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it to the witness?

MR. PUIN: I don't want to speak to what we provided to the witness in particular, but certainly the city has access to that record. It's generated from the LERMS system.

MR. BARDWELL: Right.

MR. PUIN: I don't know if you got it through a public records request or through a document production from us.

MR. BARDWELL: When I handed it over, though, that was not the first time you guys were seeing it, correct? You guys already knew about that, right?

MR. PUIN: We're on the record here and I'm not sure the purpose of this questioning and I'm not comfortable really talking about this without understanding your purpose in asking these questions.

I mean we can go off the record and talk about it or, you know, we can proceed with the questioning of the witness, but --

MR. BARDWELL: Okay. So right now you're not willing to answer that question?

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MR. PUIN: I don't even
know what you're asking, why you're asking it.

I mean we -- you have the document. You
cannot be asking us why didn't you get this
document before. It's Bates numbered with your
Bates number. You obviously had this document.

Are you trying to ask me did we show it
to our witness to prepare him for the depo? I
mean, I don't understand.

MR. BARDWELL: I'm asking if
when you got it from us that was the first time
you saw it.

MR. PUIN: I don't know
and I really don't understand the purpose of
the question. I'd rather not answer any more
questions about our document production at this
time.

MR. BARDWELL: Okay. All
right.

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1 THE STATE OF OHIO,) SS:
2 COUNTY OF CUYAHOGA.)

3 I, Sarah R. Drown, a Notary Public within and
4 for the State of Ohio, duly commissioned and
5 qualified, do hereby certify that COMMANDER MICHAEL
6 CONNELLY, was first duly sworn to testify the
7 truth, the whole truth and nothing but the truth in
8 the cause aforesaid; that the testimony then given
9 by him was by me reduced to stenotypy in the
10 presence of said witness, afterwards transcribed on
11 a computer/printer, and that the foregoing is a
12 true and correct transcript of the testimony so
13 given by him as aforesaid.

14 I do further certify that this deposition was
15 taken at the time and place in the foregoing
16 caption specified. I do further certify that I am
17 not a relative, counsel or attorney of either
18 party, or otherwise interested in the event of this
19 action.

20 IN WITNESS WHEREOF, I have hereunto set my
21 hand and affixed my seal of office at Cleveland,
22 Ohio, this 30th day of January, 2020.



24 
25 Sarah R. Drown, RPR, Notary Public
within and for the State of Ohio
My commission expires April 22, 2022.

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